100TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 100-981
Part 1

SANCTIONS AGAINST IRAQI CHEMICAL WEAPONS USE ACT

SEPTEMBER 26, 1988.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 5337 which on September 22, 1988, was referred jointly to the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Banking, Finance and Urban Affairs]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5337) to provide for the imposition of sanctions on Iraq, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 5, lines 16 and 17, strike out "subsections (a)(3) and (c)(2)" and insert in lieu thereof "subsection (a)(3)".

Page 5, line 19 insert the following after the period:

> In imposing any additional sanction under subsection (c) of this section, the President may not prohibit or curtail the execution of any contract or agreement entered into before the earlier of the date on which notice of intent to impose the additional sanction is printed in the Federal Register or the date on which the President notifies the Congress of such an intent.

Page 8, after line 15 insert the following new section:

> SEC. 8. TERMINATION OF ACT.
>
> No provision of this Act, and no sanction imposed by or under the authority of this Act, has force and effect after June 30, 1991.

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BACKGROUND, PURPOSE, AND SUMMARY

The Kurds are an ethnic minority of about 20 million concentrated in the area of Kurdistan in Northern Iraq, Southern Turkey, and Iran, who have long fought for a separate homeland in that area. There are an estimated 3 to 4 million Kurds in Iraq. In the mid-1970's, it was the policy of the United States to support the Kurdish resistance movement in Iraq by supplying military equipment and other supplies to the Kurds through Iran. The Nixon administration then reached an agreement with the Shah of Iran that cut off U.S. supplies. The Shah in 1975 gave permission for Iraq to pursue the Kurds anywhere in Kurdistan, including in Iranian territory, rather than continue a costly frontier war. At that time, Iraq began to destroy Kurdish villages and to resettle the Kurds in Arab-dominated territory. When the Iran-Iraq war broke out in 1980, the surviving Kurdish fighters turned to Iran for support.

Upon reaching a cease-fire with Iran, the government of Iraq began an aggressive operation against the Kurds, which has included the use of chemical weapons. The Reagan Administration feels confident that available evidence confirms that the government of Iraq has used chemical weapons. As a result of these attacks, an estimated 120,000 Kurds have fled across the border into Turkey, which has opened its borders to them, despite concerns about potential resistance among its own Kurdish minority.

In August 1988, the United Nations Security Council passed a resolution sponsored by four Western countries—the United Kingdom, West Germany, Italy, and Japan—which once again condemned the use of chemical weapons in the Iran-Iraq war but stated for the first time that "appropriate and effective measures will be taken" if such weapons are used again in the future. So far, however, the United Nations has been reluctant to step into the situation in Iraq, because it is a "domestic" issue rather than an international one.

Secretary of State Shultz has confronted the Iraqis with the charge of chemical weapons usage, but the Iraqi Foreign Minister and other officials have denied the charge.

The purpose of this bill is to impose certain export sanctions against Iraq upon the date of enactment and to require the President to impose additional sanctions, unless he can certify that the Government of Iraq has ceased its use of chemical weapons and provided reliable assurances that it will not do so in the future. The bill grants the President the authority to consider a variety of additional sanctions, including import sanctions, which may be imposed.

Those portions of H.R. 5337 within the jurisdiction of the Committee on Ways and Means authorize the President to consider the use of import sanctions as part of the additional sanctions required by the bill. Section 3(b) requires the President, after consultation with Congress, to impose appropriate additional sanctions against Iraq unless he certifies in writing that: (1) the Government of Iraq is not using chemical weapons in violation of international law; (2) the Government has provided reliable assurances that it will not use chemical weapons in the future in violation of international

law; and (3) the Government will allow on-site inspections by United Nations or other impartial observers, or other reliable means exist to ensure that the Government is not using chemical weapons.

Section 3(c) authorizes the President to consider specified additional sanctions. Section 3(c)(1) provides authority for the President to prohibit or otherwise restrict the importation into the United States of petroleum, petroleum products, or any other article, which is the growth, product, or manufacture of Iraq.

COMMITTEE ACTION

H.R. 5337 was introduced on September 22 by Congressman Dante B. Fascell for himself and others and was referred to the Committee on Ways and Means and two other committees. On September 23, the Committee on Ways and Means considered those provisions of H.R. 5337 which were within its jurisdiction and ordered the bill favorably reported with amendments by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section establishes the title of the bill as the "Sanctions Against Iraqi Chemical Weapons Use Act".

Section 2. Findings

This section notes that there is substantial evidence that the Iraqi army has used chemical weapons against Kurdish insurgents and unarmed Kurdish civilians, which has violated those persons' internationally recognized human rights. It further states that Iraq's use of chemical weapons is a gross violation of international law.

Section 3. Imposition of Sanctions Against Iraq

(a) Initial Sanctions

Effective upon the date of enactment, this subsection of the bill: (1) bans the sale to Iraq of, or the issuance of an export license for, any item on the U.S. Munitions List; (2) bans the export to Iraq of any goods or technology on the Export Administration Act control list; and (3) bans the issuance of licenses for the export to Iraq of any chemical that the President determines may be used primarily in the production of chemical weapons or devoted to chemical warfare purposes.

(b) Requirement for Additional Sanctions

This subsection requires the President, after consultation with Congress, to impose "appropriate additional sanctions against Iraq" unless the President certifies in writing that: (1) the Government of Iraq is not using chemical weapons; (2) the Government has provided reliable assurances that it will not use chemical weapons in the future; and (3) the Government is willing to allow on-site inspections by U.N. or other impartial observers, or other reliable means exist to ensure that the Government is not using chemical weapons.

(c) Additional Sanctions

Under this subsection, the President is authorized to consider the following additional sanctions: (1) prohibiting or otherwise restricting the importation into the United States of oil, petroleum products, or any other article grown, produced, or manufactured in Iraq; (2) prohibiting or restricting the export of agricultural commodities and products and other goods and technology under authority of the Export Administration Act; (3) denying credits, credit guarantees, and other assistance; (4) opposing any loan or financial or technical assistance to Iraq by international financial institutions; (5) downgrading or suspending diplomatic relations between the United States and Iraq.

(d) Contract Sanctity

This subsection provides that for the purpose of export controls imposed under subsection (a)(3) of section 3, contract sanctity shall exist for contracts signed before September 15, 1988. For additional sanctions imposed under subsection (c) of section 3, the President may not prohibit or curtail the execution of any contract or agreement entered into before the notice of intent to impose additional sanctions is published in the Federal Register or the date on which the President notifies the Congress of his intent to impose additional sanctions, whichever is earlier.

(e) Reports to Congress

The President is required to report to the Congress periodically on the actions taken under this section.

Section 4. Conditions for Lifting Sanctions

Section 4 provides that the President may waive the additional sanctions if he determines and certifies that: (1) the Government of Iraq is not using chemical weapons; (2) the Government of Iraq has provided reliable assurances that it will not use chemical weapons in the future; and (3) the Government of Iraq is willing to allow on-site inspections by U.N. or other impartial observers, or other reliable means exist to ensure that the Government is not using chemical weapons.

Section 5. Actions by the Government of Turkey

This section urges the Government of Turkey to cooperate with any United Nations or other appropriate investigation of Iraqi use of chemical weapons and commends that government for its decision to accept Kurdish refugees.

Section 6. Multilateral Actions

(a) United Nations

This subsection calls upon the President to bring before the U.N. Security Council the matter of Iraq's use of poison gas against its own nationals and demand that, in accordance with the U.N.'s earlier resolution, appropriate and effective measures be taken against Iraq for its repeated use of chemical weapons.

(b) Other Multilateral Efforts

This subsection calls upon the President to seek multinational cooperation in imposing sanctions and otherwise bringing pressure on Iraq to cease its use of chemical weapons and to respect the human rights of its Kurdish minority. Subsection (b) also establishes the sense of the Congress that the United States should cooperate with and, as appropriate, participate in multilateral efforts to assist Kurdish refugees in need of medical treatment and other humanitarian aid.

Section 7. Certain United States Exports

Section 7 states that it is U.S. policy to prohibit the export to Iraq of goods and technology that would contribute significantly to the Iraqi military potential. It further states that the President should review proposed exports valued at over $50 million, under authority of the Export Administration Act.

Section 8. Termination of Act

Section 8 provides that no provision of the Act, and no sanction imposed under authority of the Act, has force and effect after June 30, 1991.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the committee in reporting the bill. H.R. 5337 was ordered favorably reported with amendments by voice vote by the Committee on Ways and Means.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee concludes, on the basis of discussions among members and review of recent developments in Iraq as they relate to the use of chemical weapons against the Kurdish minority, that legislation is necessary to place pressure on the Government of Iraq to cease its use of such weapons.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGET EFFECTS AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause (2)(l)(3) of rule XI of the Rules of the House of Representatives, the following statements are made with respect to Committee action on the bill.

With respect to subdivision (B) of clause (2)(l)(3) the Committee states that:

(A) There is no new entitlement authority and thus comparisons to the Committee's 302(b) allocation are non-applicable;

(B) There is no new spending authority as described in section 401(c)(2) of the Congressional Budget and Impoundment Control Act of 1974 as amended;

(C) The report includes Congressional Budget Office projections of budget authority, budget outlays and revenues for fiscal year 1989 and the four ensuing years; and

(D) The estimate by the Congressional Budget Office includes a discussion of the expected change in the level of assistance to State and local governments.

In compliance with clause 7(a) of rule XIII and with clause 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, the Committee states that it agrees with the information furnished by the Congressional Budget Office on H.R. 5337, as reported, which is provided below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 1988.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 5337, the Sanctions Against Iraqi Chemical Weapons Use Act, as ordered reported by the Committee on Ways and Means on September 23, 1988.

The CBO estimates that H.R. 5337 would have no significant effects on the federal budget and no effects on the budgets of state and local governments. This estimate is done without final bill language, and could be subject to change based on final bill language.

This bill provides for the imposition of sanctions on Iraq for its use of chemical weapons against the Kurdish minority of that country. It would prevent the United States Government from selling to Iraq any item on the United States Munitions List, and from issuing licenses for the export to Iraq of any item on the United States Munitions List. H.R. 5337 would ban the export to Iraq of goods such as replacement parts for oil field equipment that are subject to the export controls contained in the Export Administration Act of 1979. It also requires that the President impose additional sanctions against Iraq unless he certifies that the government of Iraq is not using chemical weapons and has provided assurance that it will not use chemical weapons in the future. The additional sanctions may include imposition of a trade embargo on Iraq, restricting financial assistance, and suspending diplomatic relations between the United States and Iraq; however, these sanctions are not mandated by the bill.

If you need further details on this estimate, we will be pleased to provide them. The staff contact is Marianne Page at 226–2720 of the Tax Analysis Division.

Sincerely,

JAMES L. BLUM,
Acting Director.

INFLATIONARY IMPACT STATEMENT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 5337 would have a negligible inflationary impact on prices and costs in the operation of the general economy, based on analyses provided to the Committee by the Congressional Budget Office.

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